

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
Plaintiff,) 8:13CR105
)
vs.)
) Omaha, Nebraska
TIMOTHY DEFOGGI,) August 26, 2014
)
Defendant.)

VOLUME V
TRANSCRIPT OF TRIAL PROCEEDINGS
BEFORE THE HONORABLE LAURIE SMITH CAMP
CHIEF UNITED STATES DISTRICT JUDGE AND A JURY

A-P-P-E-A-R-A-N-C-E-S

FOR THE PLAINTIFF: Mr. Michael P. Norris
Asst. United States Attorney
1620 Dodge Street
Suite 1400
Omaha, NE 68102

Mr. Keith A. Becker
Ms. Sarah Chang
DOJ Trial Attorneys
1400 New York Avenue, N.W.
Sixth Floor
Washington, DC 20530

FOR THE DEFENDANT: Mr. John S. Berry, Jr.
Mr. Justin B. Kalemkiarian
Berry Law Firm
2650 North 48th Street
Lincoln, NE 68508

COURT REPORTER: Ms. Brenda L. Fauber, RDR, CRR
111 South 18th Plaza
Suite 3122
Omaha, NE 68102
(402) 661-7322

Proceedings recorded by mechanical stenography, transcript
produced with computer.

1 (At 9:47 a.m. on August 26, 2014, with counsel for the
2 parties present via telephone, the following proceedings were
3 had:)

4 THE COURT: This is Judge Smith Camp. We have
5 Mr. Berry on the line.

6 MR. BERRY: Yes, your Honor.

7 THE COURT: And Mr. Norris?

8 MR. NORRIS: Yes, your Honor, as well as Mr. Becker.

9 MR. BECKER: Good morning, your Honor.

10 THE COURT: Very good.

11 We have a question from the jury. I will read you the
12 question, and I will read you my proposed response.

13 The question is: We would like the PowerPoint slides
14 from the U.S. government's attorneys that reference which
15 exhibits help prove which crimes.

16 My proposed answer is: The PowerPoint slides were not
17 evidence and are not available to you during deliberations.

18 Any objection to that, Mr. Berry?

19 MR. BERRY: No, your Honor.

20 THE COURT: Any objection, Mr. Norris?

21 MR. NORRIS: No, your Honor. I think that's
22 appropriate.

23 THE COURT: Very good. I will be in touch if we have
24 any other questions or if we have a verdict. Thank you all.

25 (Recessed at 9:50 a.m.)

1 (At 10:37 a.m. on August 26, 2014, with counsel for the
2 parties and the defendant present personally, and the jury NOT
3 present, the following proceedings were had:)

4 THE COURT: As you know, we received word that the
5 jury has reached a verdict.

6 And I understand, Mr. Berry, you are with us by
7 telephone; is that correct?

8 MR. BERRY: That is correct, your Honor.

9 THE COURT: Very good.

10 Is there anything we need to discuss before the jury
11 comes in the room?

12 MR. NORRIS: No, your Honor.

13 MR. BERRY: No, your Honor.

14 THE COURT: Very good.

15 Please bring in the jury.

16 (Jury in at 10:40 a.m.)

17 THE COURT: Please be seated.

18 I can usually see from my vantage point who has the
19 envelope.

20 Juror number 548, were you selected as the foreperson of
21 this jury?

22 FOREPERSON: Yes, I was, your Honor.

23 THE COURT: Has the jury reached a verdict?

24 FOREPERSON: Yes.

25 THE COURT: And is that verdict unanimous?

1 FOREPERSON: Yes.

2 THE COURT: Very good.

3 I will ask the courtroom deputy, Ms. Gomez, to retrieve
4 the verdict form and to publish the verdict.

5 COURTROOM DEPUTY: In the United States District
6 Court for the District of Nebraska, United States of America
7 vs. Timothy DeFoggi, Case Number 8:13CR105.

8 As to Count I: We, the jury, find defendant, Timothy
9 DeFoggi, guilty of the crime of knowingly engaging in a child
10 exploitation enterprise as charged in Count I of the
11 indictment.

12 Count II: We, the jury, find defendant, Timothy DeFoggi,
13 guilty of the crime of conspiracy to advertise child
14 pornography as charged in Count II of the indictment.

15 Count III: We, the jury, find the defendant, Timothy
16 DeFoggi, guilty of the crime of conspiracy to distribute child
17 pornography as charged in Count III of the indictment.

18 Count IV: We, the jury, find the defendant, Timothy
19 DeFoggi, guilty of the crime of access with intent to view
20 child pornography as charged in Count IV of the indictment.

21 Count V: We, the jury, find defendant, Timothy DeFoggi,
22 guilty of the crime of access with intent to view child
23 pornography as charged in Count V of the indictment.

24 Count VI: We, the jury, find defendant, Timothy DeFoggi,
25 guilty of the crime of access with intent to view child

1 pornography as charged in Count VI of the indictment.

2 Count VII: We, the jury, find defendant, Timothy
3 DeFoggi, guilty of the crime of access with intent to view
4 child pornography as charged in Count VII of the indictment.

5 Signed by the foreperson on 8-26, 2014.

6 THE COURT: Is there any request for a polling of the
7 jury?

8 MR. NORRIS: No, your Honor.

9 MR. KALEMKIARIAN: Yes, your Honor.

10 MR. BERRY: Yes, your Honor.

11 THE COURT: All right. We will refer to the jurors
12 by juror number. And I will start in the back row on my left.

13 Juror No. 800, is this your verdict?

14 JUROR NO. 800: Yes.

15 THE COURT: Juror No. 36, is this your verdict?

16 JUROR NO. 36: Yes.

17 THE COURT: I couldn't hear you.

18 JUROR NO. 36: Yes.

19 THE COURT: Juror No. 479, is this your verdict?

20 JUROR NO. 479: Yes, your Honor.

21 THE COURT: Juror No. 810, is this your verdict?

22 JUROR NO. 810: Yes.

23 THE COURT: Juror No. 482, is this your verdict?

24 JUROR NO. 482: Yes, your Honor.

25 THE COURT: Juror No. 366, is this your verdict?

1 JUROR NO. 366: Yes.

2 THE COURT: Juror No. 548, is this your verdict?

3 JUROR NO. 548: Yes.

4 THE COURT: Juror No. 226, is this your verdict?

5 JUROR NO. 226: Yes.

6 THE COURT: Juror No. 304, is this your verdict?

7 JUROR NO. 304: Yes, your Honor.

8 THE COURT: Juror No. 287, is this your verdict?

9 JUROR NO. 287: Yes, your Honor.

10 THE COURT: Juror No. 220, is this your verdict?

11 JUROR NO. 220: Yes.

12 THE COURT: Juror No. 75, is this your verdict?

13 JUROR NO. 75: Yes, your Honor.

14 THE COURT: On behalf of the court, I want to thank
15 all of the jurors for their time and attention throughout the
16 last week or so.

17 I will be coming back into the jury room to thank you
18 personally. You're not under any obligation to wait. But if
19 you wish to wait, I'll be back there in just a couple of
20 things. I just need to see if there is anything else that the
21 lawyers need me to address.

22 Your obligation to the court is complete. You don't need
23 to call in to the clerk's office for any further instructions.

24 And again on behalf of the court, thank you.

25 (Jury out at 10:45 a.m.)

1 THE COURT: Please be seated.

2 You'll receive the Court's sentencing order
3 electronically. The sentencing here is set for November 7,
4 2014, at nine o'clock a.m.

5 The defendant will be remanded to the custody of the U.S.
6 Marshal pending the sentencing.

7 And is there anything else that we need to address at
8 this time, Mr. Norris?

9 MR. NORRIS: No, your Honor.

10 THE COURT: Mr. Berry?

11 MR. BERRY: No, your Honor.

12 THE COURT: All right. Very good.

13 Thank you. We're adjourned.

14 MR. KALEMKIARIAN: Thank you.

15 MR. BECKER: Thank you.

16 MS. CHANG: Thank you, your Honor.

17 (Adjourned at 10:45 a.m.)

18 I certify that the foregoing is a correct transcript from
19 the record of proceedings in the above-entitled matter.
20
21
22

23 /s Brenda L. Fauber

10-7-14

24 Brenda L. Fauber, RDR, CRR

Date

25